

Item # _____

Moved by: _____

Prepared by: Dottie Jones

Seconded by: _____

Approved by: Christy Kinard
Assistant County Attorney

A Resolution by The Board of Commissioners of Shelby County, Tennessee, to Amend Resolution #26 Adopted on December 7, 2009 to enact legislation amending Tennessee Code Annotated, Title 67, Chapter 5, Section 2504, relative to tax sales and the invalidation or rescission of certain sales. Sponsored by Commissioner Steve Mulroy.

WHEREAS, The Board of Commissioners adopted resolution #26 on December 7, 2009 relative to tax sales and the invalidation or rescission of certain sales; and

WHEREAS, Resolution #26 clarifies the amount of damages or value that may be awarded to those parties holding an equitable interest in tax sale properties, but were either not sufficiently notified of the sale of the property or were not discovered in the tax sale title search; and

WHEREAS, We would like to add language to the legislation that the maximum value that may be awarded to any party owning or holding an equitable interest in the property sold for delinquent taxes, and who failed to receive notice of the sale, as provided by law, in sufficient time to protect their interest, shall be the owner's prorated portion of the value of the property at the time of the purchase by the successful tax sale bidder, less the taxes owed on the property at the time of the sale, plus interest paid at prime rate on the resulting sum from the time of the claim; and

WHEREAS, the Board of County Commissioners of Shelby County, Tennessee, believes that it is appropriate that a resolution be passed to amend resolution #26 passed on December 7, 2009 to amend Tennessee Code Annotated, Title 67, Chapter 5, Section 2504 relative to invalidation of tax sales and specifying the actions and proceedings.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, that this Board, after careful consideration, hereby requests to amend resolution #26 adopted on December 7, 2009 by adding language, that the maximum

value that may be awarded to any party owning or holding an equitable interest in the property sold for delinquent taxes, and who failed to receive notice of the sale, as provided by law, in sufficient time to protect their interest, shall be the owner's prorated portion of the value of the property at the time of the purchase by the successful tax sale bidder, less the taxes owed on the property at the time of the sale, plus interest paid at prime rate on the resulting sum from the time of the claim, a copy of which is attached hereto and incorporated herein by reference, amending Tennessee Code Annotated, Title 67, Chapter 5, Section 2504 relative to invalidation of tax sales and the damages that may be awarded.

BE IT FURTHER RESOLVED, that the Shelby County Legislative Delegation and the members of the Tennessee General Assembly be made aware of the request by copy of this resolution.

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately, the public welfare requiring the same.

Joyce Avery, County Mayor

Date: _____

ATTEST:

Clerk of County Commission

ADOPTED: _____

SUMMARY SHEET

I. Description of Item

A Resolution by The Board of Commissioners of Shelby County, Tennessee, to Amend Resolution #26 Adopted on December 7, 2009 to enact legislation amending Tennessee Code Annotated, Title 67, Chapter 5, Section 2504, relative to tax sales and the invalidation or rescission of certain sales

The Board of Commissioners adopted resolution #26 on December 7, 2009 relative to tax sales and the invalidation or rescission of certain sales. Resolution #26 clarifies the amount of damages or value that may be awarded to those parties holding an equitable interest in tax sale properties, but were either not sufficiently notified of the sale of the property or were not discovered in the tax sale title search. We would like to add language to the legislation that the maximum value that may be awarded to any party owning or holding an equitable interest in the property sold for delinquent taxes, and who failed to receive notice of the sale, as provided by law, in sufficient time to protect their interest, shall be the owner's prorated portion of the value of the property at the time of the purchase by the successful tax sale bidder, less the taxes owed on the property at the time of the sale, plus interest paid at prime rate on the resulting sum from the time of the claim.

II. Source and Amount of Funding

Not applicable.

III. Contract Items

Not applicable.

IV. Additional Information Relevant to Approval of this Item

Text of proposed legislation is attached.



AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 5, Section 2504, relative to invalidation of tax sales and the damages that may be awarded.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-5-2504(c), is amended by designating the existing language as subsection (c)(1), and by adding the following language to be designated as subsections (c)(2), (c)(3), and (c)(4) as follows:

(c)(2) The maximum value that may be awarded to any party owning or holding an equitable interest in the property sold for delinquent taxes, and who failed to receive notice of the sale, as provided by law, in sufficient time to protect their interest, shall be the owner's prorated portion of the value of the property at the time of the purchase by the successful tax sale bidder, less the taxes owed on the property at the time of the sale, plus interest paid at prime rate on the resulting sum from the time of the claim. This procedure controls regardless of whether the delinquent tax attorney or the county trustee failed to notify all parties with an equitable interest in the property sold for taxes, except for fraud or misrepresentation by any person, party or agent for the local government, or collusion between an agent and other party, including those holding an equitable interest. The tax sale need not be invalidated so long as the person claiming failure of process is compensated at the value(s) established herein.

(c)(3) The provisions of this subsection shall only apply in any county or municipality having a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census.

(c)(4) If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

Section 2. This act shall take effect July 1, 2010, the public welfare requiring it.